

## FINDINGS OF FACT

The City/County Planning staff has prepared the Findings of Fact for the Sanctuary Canyon Subdivision, 1<sup>st</sup> Filing. These findings are based on the preliminary plat application and address the review criteria required by the Montana Subdivision and Platting Act (76-3-608, MCA) and the Yellowstone County Subdivision Regulations (YCSR).

### **A. What are the effects on agriculture, local services, the natural environment, wildlife, wildlife habitat, and public health and safety (76-3-608(3)(a), MCA) (Section 3.2(H)(2), YCSR)**

#### **1. Effect on agriculture and agricultural water users' facilities**

The subject property is not currently used for agricultural purposes and does not have water rights. The subdivision should not affect agricultural water users' facilities or take land out of agricultural production.

#### **2. Effect on local services**

- a. **Water and Sewer** – Lockwood Water and Sewer District shall be used to supply water to the individual lots. A service line will be extended in Trailmaster Drive to the new road, Sanctuary Canyon Road, within the proposed subdivision. A new 8-inch water line will be installed in Sanctuary Canyon Road to the temporary cul-de-sac end. An additional water line will be installed from the one that ends at the intersection of Hailee Street and Lacey Road from the subdivision to the west, Twin Coulee Subdivision, and continue into the proposed subdivision through Lacey Road. Individual septic systems are proposed for each of the lots. Locations and design of the septic systems will be reviewed and approved by the Montana Department of Environmental Quality (MDEQ) prior to final plat approval. These systems will be constructed as approved by the MDEQ and as shown on approved plans. **(Condition #1)**
  
- b. **Streets and roads** – The proposed subdivision is located on the south side of Trailmaster Drive and east of Hailee Street in the Twin Coulee Subdivision, a local paved street. One road is proposed to come off of Trailmaster Road and a second road into the subdivision will be the continuation of Lacey Road from Twin Coulee Subdivision to the west. They will be built to a County paved road standards. The streets in this subdivision will be public streets and the applicant will be expanding and creating the needed RSID-M's for the roads to be maintained as outlined in the SIA. **(Condition #2)** There is currently a dispute regarding the continuation of Lacey Road that is being litigated in the County. A resident on the current dead end of Lacey Road contends that it is a permanent cul-de-sac dead end and was never intended to continue onto the neighboring property. They also claim their property wraps around the end of the cul-de-sac therefore it cannot be a road right of way. The following paragraphs are from the County Attorney's office regarding the pending case.

*Twin Coulee Subdivision has a number of cul-de-sacs. The only one to not have lots radiating around the entire circumference is the one at the end of Lacey Road. Additionally, the only one that has gravel "half moons" is the one at the*

*end of Lacey Road. The square footage of the lot on the south at the end of Lacey Road meshes with a property pin that was apparently omitted, leading the owner of the southern lot to believe there is a triangle piece that is a fee interest that is not encompassed by the cul-de-sac. The homeowner seems to ignore clear 60-foot-wide parallel lines on the plat of Twin Coulee Subdivision which indicate a dedication. It is the county's position that there is a "double dedication" that gives the county a use right over the triangle piece.*

*Additionally, Twin Coulee Estates Subdivision was created in 2008 with Lacey Road being paved all the way to the property line of the current developer's property. The county is in the process of amending its answer in the lawsuit to claim a prescriptive use right over the triangle piece. The situation looks to be a clear surveying error but that is certainly not guaranteed. The county feels confident about winning the suit but will have to wait for the court's decision.*

*Dan Schwarz  
Deputy County Attorney*

See Attachment 'Lacey Road'

- c. **Fire and Police Services** – The property is within the Lockwood Fire Department's jurisdiction. It is the subdivider's responsibility to ensure provisions of a water source and adequate access to the proposed lots for emergency service's needs. Pressurized fire hydrants shall be installed in Sanctuary Canyon Road and in Lacey Road to meet the requirements for fire suppression water supply specified by the Lockwood Fire Department.

The Yellowstone County Sheriff's Department will provide law enforcement services.

- d. **Solid Waste disposal** – The Billings Landfill has capacity for solid waste disposal. Solid waste will be collected and disposed of by a private garbage collection company. Each lot owner will be responsible for arranging for collection.
- e. **Storm water drainage** – The management of storm water runoff shall be designed to satisfy storm water management requirements and specifications of MDEQ and Yellowstone County. The preliminary plat shows that storm water will be absorbed on-site in the ditches along the paved road and also within two storm retention areas along existing drainages on site. The proposed retention ponds are located on the east edge of Lots 6 & 7 of Block 1 and the second one outside this filing between future lots. All storm water drainage will need to be approved by MDEQ prior to final plat approval. **(Condition #1)**

The topography of this area has some natural drainages in existence. The applicant is proposing to use two existing drainages as the subdivision to the west, Twin Coulee Subdivision, has done. The applicant is showing storm water drainages on the plat as '20' wide Park / Trail Easement'. These run between Lots 3 and 4 of Block 2 continuing

under Sanctuary Canyon Road then between Lots 6 and 7 of Block 1 to the Storm Water Detention and Park. The second natural drainage runs north of Lots 8 through 11, Block 3, and will have other lots on the north and south of the drainage in future filings. If these drainages are to be used as trails to park area, staff is recommending that the easements need to be wider. The drainages in this proposed subdivision are not as wide as the ones in Twin Coulee Subdivision to the west. To address the potential safety of users of these trail/drainage corridors, staff believes they should be wider. Because people may want to fence their yards, these corridors could become a 20-foot-wide water drainage ‘tunnel’ that could be a hazard to users of these trail/drainage corridors. This could present issues with adults walking or children playing in the corridor during a rain storm, or there could be a heavy winter snow and spring runoff. Staff believes the corridor should either be a wider easement, or a restriction of placement of fences along the drainage / ‘Trail Easement’ should be required to prevent too narrow a drainage area that could prevent people from getting out of the water flow areas. **(Condition #3)**

- f. **School facilities** – The proposed subdivision is located in the Lockwood School District for elementary and middle school, and Billings School District #2 for high school (Senior High or Skyview). Lockwood School District responded that they have additional capacity and that there is a bus route in the area that could service this subdivision. Staff did not receive a response from School District #2.
- g. **Parks and recreation** – This subdivision is required to provide parkland dedication for the 20 lots of varying sizes. One lot is under a ½ acre, 18 lots are greater than a ½ acre but not more than 1 acre, and one lot is over 1 acre. The requirements for parkland are split among the three required percentages, 11% for ½ acre or less, 7.5% for ½ acre to 1 acre and 5% for 1 acre but smaller than 3 acres. The total required parkland dedication is 0.89 acres; the applicant is proposing to provide 1.289 acres for parkland. The developer will also be required to create a Park Maintenance District for the parkland dedication prior to final plat approval. The requirement for a Park Maintenance District is noted in the SIA. The 20’ wide Park / Trail Easements are not part of the park land dedication. The applicant will be creating a Park Maintenance District for the proposed parks in the subdivision. **(Condition #4)**
- h. **Historic features** – No known historical or cultural assets exist on the site.
- i. **United States Postal Service** – The USPS responded that they are looking for centralized delivery unit located on the corner of Trailmaster and Sanctuary Canyon Road. **(Condition #5)**

### **3. Effects on the natural environment**

The development will use noxious weed control measures to prevent the spread of noxious weeds to adjacent developed or agricultural land. A weed management plan will be completed and a property inspection done prior to final plat approval. **(Condition #6)**

MDEQ will review and approve the new proposed septic systems and storm water management facilities to ensure any impacts of the development are mitigated.

There are no apparent or known natural hazards on the property.

#### **4. Effects on wildlife and wildlife habitat**

There are no known endangered or threatened species on the property. Montana Fish, Wildlife, and Parks (FWP) responded to a request for review and comment on the proposed subdivision. It is suggested that future homeowners should be made aware that unless they take steps to deter animals such as fencing their yards they may experience damage problems. A note to this effect is found within the SIA to help inform future landowners.

#### **5. Effects on public health and safety**

Plans and designs for use of the proposed septic systems and public water supply will be reviewed and approved by MDEQ and Lockwood Water District prior to final plat approval. Fire and emergency services are provided for this proposed subdivision. Effects on public health and safety should be minimal.

#### **B. Was an environmental assessment required? If yes, what, if any, significant adverse impacts were identified? (76-3-616, MCA) (Chapter 9, YCSR)**

An environmental assessment was required for this subdivision. There has been no agricultural activity on this land and there are no irrigation ditches on the property. The land has been used in the past as dryland pasture. It is noted that the area is known for deer and antelope habitat in the area and occasionally wild turkeys. This subdivision will have quite a lot of open space which will allow for corridors for the area wildlife.

#### **C. Does the subdivision conform to the Yellowstone County-City of Billings 2008 Growth Policy Update, the 2014 Billings Urban Area Long Range Transportation Plan, and the Billings Area Bikeway and Trail Master Plan? (Section 3.2 (H)(4), YCSR)**

1. **2016 Lockwood Growth Policy** – The proposed subdivision is in an area of Lockwood that is not zoned but surrounding property is developed for residential uses. The Preferred Future Land Use Map for the Lockwood Area in the 2016 Growth Policy shows the area where this subdivision is proposed as Agricultural Suburban in the future.

- **Growth Guideline:** Consider connectivity and convenient access for all users when designing future road network.

*This subdivision will create 20 lots for single family residences, consistent with the immediately surrounding neighborhood. It will be connecting to the neighboring subdivision to the west providing connectivity and continuity of streets.*

2. **2014 Billings Urban Area Long Range Transportation Plan**

The subject property is outside the boundary of the study area of the Transportation Plan. New lots will be served by internal local streets; the appropriate amount of right-of-way is being provided with this plat.

3. **Billings Area Bikeway and Trail Master Plan (BABTMP)**

The subject property is not within the jurisdiction of the BABTMP.

**D. Does the subdivision conform to the Montana Subdivision and Platting Act and to local subdivision regulations? [76-3-608(3)(b), MCA and Section 3.2(3)(a), YCSR]**

The proposed subdivision meets the requirements of the MSPA and the YCSR. The subdivider and the local government have complied with the subdivision review and approval procedures that are set forth by local and state subdivision regulations.

**E. Does the subdivision conform to sanitary requirements? [Section 4.8(C) and 4.9 (C), YCSR]**

The subdivider shall receive approval from MDEQ for the proposal to make use of the public water and individual septic systems for the new lots.

**F. Does the proposed subdivision meet any applicable Zoning Requirements? [Section 3.2(H)(3)(e), YCSR]**

The subdivision is outside the County's zoning jurisdiction; therefore, no zoning requirements exist.

**G. Does the subdivision provide for necessary planned utilities? [76-3-608(3)(c), MCA and Section 3.2 (H)(3)(b), YCSR]**

Utility easements shall appear on the face of the final plat as requested by private utility companies. The submitted plat shows 8-foot utility easements along both sides of the proposed roads within the subdivision. Those easements will meet the requirements of both MDU and Northwest Energy. Northwestern Energy comments included the caution that there are existing overhead electric lines across the site. If the developer needs to relocate them there would be substantial costs involved.

**H. Does the proposed subdivision provide for legal and physical access to all lots? [76-3-608 (3)(d), MCA and Section 3.2 (H)(3)(c)(d), YCSR]**

Legal and physical access will be provided for the proposed lots from Sanctuary Canyon Road and Lacey Road.

**CONCLUSIONS OF FINDINGS OF FACT**

- The Sanctuary Canyon Subdivision, 1<sup>st</sup> Filing does not create adverse impacts that warrant denial of the subdivision.
- Impacts to agriculture, agriculture water user facilities, local services, public health and safety, the natural environment, and wildlife should be minimal. Impacts identified can be mitigated by reasonable conditions of final plat approval.
- The subdivision conforms to a goal of the 2016 Lockwood Growth Policy but does not meet others.

- The applicant has complied with the MSPA and YCSR processes and the subdivision conforms to the law requirements.

**RECOMMENDATION**

Staff recommends that the Planning Board recommend to the Board of County Commissioners conditional approval of the preliminary plat of Sanctuary Canyon Subdivision, 1<sup>st</sup> Filing and adoption of the Findings of Fact as presented in the staff report.